

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kyle Johnson and Randy Johnson,

Plaintiffs,

v.

Civil No. 14-1521 (JNE/BRT)
ORDER

Ear, Nose and Throat SpecialtyCare of
Minnesota, P.A.,

Defendant.

Ear, Nose and Throat SpecialtyCare of Minnesota, P.A., which is a citizen of Minnesota, removed this action from state court on the basis of the jurisdiction conferred by 28 U.S.C. § 1332(a)(1) (2012). “A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2) (2012). The United States Court of Appeals for the Eighth Circuit has “held that the violation of the forum defendant rule is a jurisdictional defect and ‘not a mere procedural irregularity capable of being waived.’” *Horton v. Conklin*, 431 F.3d 602, 605 (8th Cir. 2005) (quoting *Hurt v. Dow Chem. Co.*, 963 F.2d 1142, 1146 (8th Cir. 1992)). Ear, Nose and Throat SpecialtyCare of Minnesota recently acknowledged that it had removed the action from state court in violation of § 1441(b)(2), and it asked that the action be remanded to state court. The Court remands the action to state court.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. This action is REMANDED to the Second Judicial District of the State of Minnesota.
2. The Clerk of Court shall mail a certified copy of this Order to the clerk of the Second Judicial District of the State of Minnesota.

Dated: February 23, 2015

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge